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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ERIC GUNDERSEN, on behalf of himself  
and all others similarly situated,

Plaintiff,

v.

LENNAR ASSOCIATES MANAGEMENT,  
LLC; LENNAR CORPORATION dba  
LENNAR HOMES, and DOES 1 through 10,  
inclusive,

Defendants.

Case No. C-09-2270 CRB

STIPULATION AND ~~[PROPOSED]~~  
ORDER TO CONTINUE HEARING ON  
PLAINTIFF'S MOTION FOR FLSA  
CONDITIONAL CERTIFICATION AND  
MOTION FOR LEAVE TO AMEND  
COMPLAINT

1 Pursuant to Rule 4 of the Honorable Judge Breyer's Standing Order, and subject to the  
2 Court's approval, Defendants Lennar Associates Management, LLC, and Lennar Corporation dba  
3 Lennar Homes, (collectively "Lennar"), and Plaintiff Eric Gundersen ("Gundersen") hereby  
4 stipulate to a continuance of Plaintiff's Motion for FLSA Certification [D.E. #61, amending  
5 original motion at D.E. #59] ("FLSA Motion") and Motion for Leave to Amend Complaint [D.E.  
6 #46] ("Motion to Amend Complaint") (collectively, "Motions"), currently scheduled for June 25,  
7 2010, to reset the Motions for hearing on August 20, 2010, and they show as follows:

8 1. The parties desire to engage in further settlement discussions and focus their  
9 efforts on attempting to resolve this action without incurring the additional attorneys' fees and  
10 costs associated with Plaintiff's Motions.

11 2. To allow the parties sufficient time to engage in a further settlement dialogue, the  
12 parties hereby stipulate to and respectfully request that the Court approve a continuance of the  
13 hearing on Plaintiff's Motions to August 20, 2010, at 10:00 a.m.

14 3. The parties further stipulate and agree to toll the statute of limitations as a legal  
15 defense to Plaintiff's proposed cause of action for violation of the federal Fair Labor Standards  
16 Act, 29 U.S.C. §201, *et seq.*, for a Tolling Period consisting of the 30-day period from and  
17 including June 25, 2010 until July 24, 2010.

18 4. This tolling will not act as a revival of any limitations period for claims for which  
19 the applicable limitations period(s) have already expired as of the date of this stipulation.

20 5. By stipulating to a Tolling Period as described above, Lennar preserves its  
21 objections to the inclusion of an FLSA claim in this action and does not waive its right to oppose  
22 Plaintiff's motion for leave to amend to add an FLSA claim to his complaint.

23 6. By stipulating to a Tolling Period as described above, Plaintiff does not waive his  
24 request for further equitable tolling as set forth in his FLSA Motion [D.E. #61], and Lennar  
25 reserves its right to oppose Plaintiff's request for any further equitable tolling.

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1 Dated: June 23, 2010

MEYER WHITE LLP

2  
3 By: /s/ Cindi L. Pusateri

Cindi L. Pusateri

4 Counsel for Defendants

5 LENNAR ASSOCIATES MANAGEMENT,  
6 LLC; LENNAR CORPORATION dba  
7 LENNAR HOMES

8 Dated: June 23, 2010

HINTON, ALFERT & SUMMER

9 By: /s/ Aaron D. Kaufmann

Aaron D. Kaufmann

10 Counsel for Plaintiff

11 ERIC GUNDERSEN

12  
13 **ORDER**

14 PURSUANT TO THE STIPULATION, IT IS ORDERED.

15 The hearing on Plaintiff's Motion for FLSA Certification and Motion for Leave to Amend  
16 Complaint presently set for June 25, 2010, is continued to 10:00 a.m. on August 20, 2010. The  
17 statute of limitations on Plaintiff's proposed claim for unpaid overtime under the Fair Labor  
18 Standards Act, 29 U.S.C. §201, et seq., is tolled for a 30-day Tolling Period consisting of the  
19 period from and including June 25, 2010 until July 24, 2010.

20  
21 Dated: June 23, 2010

